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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,609	10/29/2003	Wanda J. May	09999-0603--May	6858

7590 11/05/2004

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EXAMINER
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CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/696,609

Applicant(s)

MAY, WANDA J.

Examiner

Fredrick C Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 10-19, 21-24 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 12-15, 21-24 and 29 is/are rejected.
- 7) ☒ Claim(s) 10-12, 17-19, 26-28 and 30-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 12, 21-22, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,605,235 to Johnson in view of U.S. Pat. No. 4,466,148 to Jones.

In reference to claim 1, Johnson discloses a caddy 10 for use with furniture comprising a cushioning object supported by a cushion support structure, said caddy comprising:

a first member;

a second member connected to said first member, wherein one of said first and second members is insertable between the cushioning object and the cushion support structure of the furniture so as to define a captured portion of the caddy when inserted between the furniture cushioning object and cushion support structure, and wherein the other of said first and second members defines a free portion of the caddy when said captured portion is inserted between the furniture cushioning object and cushion support structure, and wherein said first and second members are interchangeably operable as said captured portion and said free portion, whereby said free portion is disposed

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substantially vertically when said captured portion is inserted between the furniture cushioning object and cushion support structure (fig. 1-2);

a receptacle 12 having an open end for releasably receiving at least one item therein. Johnson fails to disclose a means for connecting the receptacle to a free end portion. Jones discloses a means 16 for connecting a receptacle to said free portion of a device. It would have been obvious to employ a connecting means as taught by Jones in order to detachably secure the receptacle to the free end of Johnson. With regards with the Applicant's recitation "wherein said first and second members are interchangeably operable as said captured portion and said free portion" and "whereby a user of the caddy can orient said open end of said receptacle upwardly regardless of whether said free portion extends upwardly or downwardly with respect to said captured portion" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim 2, wherein at least one of said first and second members is substantially planar.

Claim 3, wherein both of said first and second members are substantially planar.

Claim 5, wherein said first and second members are permanently connected to one another at a substantially perpendicular angle.

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Claim 12, wherein said means for connecting said receptacle to said free portion comprise means for releasably connecting said receptacle to said free portion (col. 3 lines 43-46)(Jones).

Claim 21, wherein said means for releasably connecting said receptacle to said free portion comprise bracket means 18 carried by said free portion for slidably receiving said receptacle (Jones).

Claim 22, wherein said means for releasably connecting said receptacle to said free portion comprise a cooperating male and female fastener arrangement (16,21) (Jones).

Claim 29, Johnson discloses a caddy 10 for use with furniture comprising a cushioning object supported by a cushion support structure, said caddy comprising:

- a first member;

- a second member connected to said first member, wherein one of said first and second members is insertable between the cushioning object and the cushion support structure of the furniture so as to define a captured portion of the caddy when inserted between the furniture cushioning object and cushion support structure, and wherein the other of said first and second members defines a free portion of the caddy when said captured portion is inserted between the furniture cushioning object and cushion support structure, and wherein said first and second members are interchangeably operable as said captured portion and said free portion, whereby said free portion is disposed

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substantially vertically when said captured portion is inserted between the furniture cushioning object and cushion support structure (fig. 1-2);

a receptacle 12 having an open end for releasably receiving at least one item therein.

means for permanently connecting said receptacle to said free portion.

With regards with the Applicant's recitation "wherein said first and second members are interchangeably operable as said captured portion and said free portion" and "whereby a user of the caddy can orient said open end of said receptacle upwardly regardless of whether said free portion extends upwardly or downwardly with respect to said captured portion" it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,605,235 to Johnson in view of U.S. Pat. No. 4,466,148 to Jones and U.S. Pat. No. 4,022,361 to Devlin.

In reference to claim 13, Jones discloses all of the Applicant's claimed limitations except for the receptacle having a hook and loop fastener. Delvin discloses a receptacle having a hook and loop (col. 3 lines 3-8). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a hook and loop fastener as taught by Delvin in order to detachably secure the receptacle to the bed.

Claims 14-15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable U.S. Pat. No. 5,605,235 to Johnson in view of U.S. Pat. No. 4,466,148 to Jones and U.S. Pat. No. 5,111,545 to Krozal.

In reference to claims 14 and 23, Jones discloses all of the Applicant's claimed limitations except for the receptacle having a snap fastener. Krozal discloses a receptacle having a snap fastener wherein the receptacle carries a male component 57 and the free portions includes at least one opening defining the female component 59. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a snap fastener as taught by Krozal in order to easily remove the receptacle from the bed.

Claim 15, further comprising interference means 18 for preventing inadvertent rotation of said receptacle with respect to said free portion.

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Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,605,235 to Johnson in view of U.S. Pat. No. 4,466,148 to Jones and U.S. Pat. No. 5,916,087 to Owens.

In reference to claim 24, Jones discloses all of the Applicant's claimed limitations except for having a snap fastener with a magnetic means carried by said receptacle and said free portion. Owens discloses a snap fastener (73,74) having a magnetic means carried by said receptacle and said free portion (col. 8 lines 24-29). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the magnetic means as taught by Owens with the device of Jones in order to provide an indication that the firearm is being removed from the receptacle.

#### ***Allowable Subject Matter***

Claims 17-19, 26-28, and 30-32 are allowed.

Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

With respect to claims 1-3, 5, 12-15, and 21-24, Johnson has been incorporated in the new ground(s) of rejection as a result of a new and updated search.



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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC  


  
MICHAEL F. TRETTEL  
PRIMARY EXAMINER  
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